IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9918 of 1995
WITH
SPECIAL CIVIL APPLICATION No. 9944 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHARVAD MAYABHAI MOTIBHAI & 6 - Petitioner(s)

Versus

GHATLODIA NAGARPALIKA & 1 - Respondent(s)

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Appearance :

MR YN OZA for Petitioner(s) : 1 - 6, 6.2.1,6.2.2 - 7.MR BP GUPTA for Petitioner(s) : 3.2.1,3.2.2
MR DN KIRATSATA for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,

MR. MR MENGDEY, ASSTT. GOVERNMENT PLEADER for Respondent(2) : 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 15/09/2005

COMMON ORAL JUDGMENT

1.Rule. Shri D.N.Kiratsata, learned advocate waives

service of Rule on behalf of respondent No.1. Shri M.R.Mengdey, learned AGP waives service of Rule on behalf of respondent No.2.

2.With the consent of the learned advocates appearing on behalf of the parties the matters are taken up for final hearing today.

3.In both these petitions, the respective petitioners have prayed for an appropriate writ, direction or order quashing and setting aside the Notice dated 16.11.1995 issued by the Chief Officer of the Gatlodia Nagarpalika issued under Section 185 of the Gujarat Municipalities Act, 1993 directing the petitioners to remove the encroachment. Initially, the ad-interim relief was granted by this Court, however, Civil Applications came to be filed on behalf of the respondent- Ghatlodia Nagarpalika being Civil Application No.2994/1995 in Special Civil Application No.9944/1995 and Civil Application No.3004/1995 in Special Civil Appliction No. 9918/1995 and the learned Singal Judge (Coram : Hon'ble Mr. Justice N.N.Mathur) passed the following order:-

> “The petitioners may make representation to the Respondent-Ghatlodiya Nagarpalika as well as the

> District Collector, Ahmedabad for allotment of alternative land. If such representation is submitted within a period of 10 days from today, the same shall be disposed of within a period of two months thereafter."

4. Today, when the matter is called out Shri B.P.Gupta, learned advocate appearing on behalf of the petitioners has submitted that inspite of the aforesaid order passed by the learned Singal Judge of this Court, no decision has been taken by the Ghatlodia Nagar Palika or the Collector, Ahmedabad, though directed by this Court. He has also further submitted that the petitioners will be satisfied if a direction issued by this Court directing them to consider the request of the petitioners for allotment of alternative land, if any, in accordance with law and on merits. Under the circumstances, a proper representation is being made by the petitioners afresh within the period of two weeks from today before the Ghatlodia Nagarpalika as well as the Collector, Ahmedabad. The respondents are directed to consider the same in accordance with law and on merits as early as possible preferably within a period of 3 months from the date of receipt of such a representation. However, it is observed that this Court has not expressed any opinion on merits on such representation and ultimately it is for the Collector,

Ahmedabad to proceed with the same in accordance with law and on merits, till then the parties are directed to maintain **status-quo.** As on 8.12.1995 a statement was made on behalf of the Ghatlodia Nagarpalika that there was intention to evict the petitioners from the said premises on that date and accordingly, they are protected.

5. With this observation and direction, the present Special Civil Applications are disposed of. Rule is discharged.

Direct Service is permitted.

(M.R.SHAH, J.)

kdc.